IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1933 OF 2002

1. Shri Vinod Pandurang Kachve,
Aged 39 years, occupation-
Business, R/o.Survey no.275/1,
Collector Patta, Plot No.8,
Nisarg Nagar, Sangmeshwar,
Malegaon, Dist. Nasik.

2. Shri Raghunath Zhuga Suryavanshi,
Aged 44 years,
occupation-Business,
R/o.Survey No.282/3,
Collector Patta, Plot No.1,
Nisarg Nagar, Sangameshwar,
Malegaon, Dist. Nasik.

3. Sau.Sarla Jibhau Ahire,
Aged 41 years,
occupation-Household,
R/o.Survey No.271/1,
Collector Patta, Plot No.1,
Nisarg Nagar, Sangameshwar,
Malegaon, Dist. Nasik. Petitioners

vs.

1. The State of Maharashtra,

2. The Minister of State,
Urban Development Department,
Mantralaya, Mumbai-32.

3. The Commissioner,
Municipal Corporation for the
City of Malegaon, Malegaon,
Dist. Nasik.

4. The Collector,
Nasik,Dist.Nasik.

5. The Commissioner,
Revenue Department. Respondents

Mr.N.N.Shimpi i/b. Mr.P.K.Dhakephalkar for the petitioners.

Mr.S.R.Nargolkar,A.G.P. for the respondents 1, 2, 4 and 5.

Mr.S.M.Sabrad for the respondent no.3.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 6th May 2005

ORAL JUDGMENT (Per R.M.Lodha,J.)

Heard.

2. By this writ petition, the petitioners have interalia prayed for the following reliefs:

(a) Issue appropriate writ, order or direction under Article 226 of Constitution of India, thereby directing the Respondents to include the area known as "Collectors patta" situated at Sangameshwar, Malegaon, within the Municipal limits of the Municipal Corporation for the city of Nasik.

(b) Direct the Respondents to include the area known as "Collectors' Patta" situated at Sangameshwar, Malegaon, within the Municipal limits of the Municipal Corporation for the city of Nasik, pending hearing and final disposal of this petition."

3. It is true that the Municipal Corporation for the city of Malegaon has made report to the State Government that the area comprising of "Collectors' Patta" may be merged in Malegaon Municipal Corporation area as the said area is adjacent to the Corporation limits of Malegaon city.

4. The State Government does not seem to be averse in considering the inclusion of the area "Collector Patta" into the limits of Malegaon Municipal Corporation in exercise of its power under Section 3 of the Bombay Provincial Municipal Corporation Act, 1949 but the difficulty has arisen because of the instructions issued vide letter dated 19th August 2002 by the Delimitation Commission constituted under the Delimitation Act, 2002. In its letter dated 19th August 2002, the Delimitation Commission has asked all the States including the State of Maharashtra not to alter or change in any manner administrative or development units in the State while the delimitation work is in progress. In the opinion of the Delimitation Commission, any change made in the administrative or development units may not only hamper the time schedule of the Commission, but also may cause lot of confusion. Paragraphs 3 and 4 of the letter dated 19th August 2002 are relevant for the present purposes and are reproduced thus:

> "3. Under the said Act, administrative or development units are the basic units for carving out the constituencies. In this connection your attention is drawn to clause (a) of sub-section (1) of Section 9 of the Act which lays down that the constituencies shall be delimited having regard to the existing boundaries of administrative units. Therefore any changes made in the administrative or development units in the State when the delimitation' work is in progress will not only hamper the time schedule of the Commission but also will cause a lot of confusion. It is therefore imperative that

the existing administrative boundaries remain unaltered while the delimitation exercise is being undertaken.

4. The Commission directs that the existing boundaries of various administrative units as on 1st August, 2002 shall not be altered or changed in any manner till the delimitation of the State is finally notified."

5. In view of the constraint put by the Delimitation Commission vide its direction issued on 19th August 2002 non-action on the part of the State Government on the representation made by the petitioners and the report submitted by the Municipal Corporation for the city of Malegaon for inclusion of area of "Collector patta" by extending the limits of Malegaon Municipal Corporation cannot be faulted. Obviously, once the constraint put on the State Government by the Delimitation Commission vide its letter dated 19th August 2002 is lifted, the State Government shall consider the representation made by the petitioners and the report submitted by the Malegaon Municipal Corporation for inclusion of area of "Collector patta' in the Corporation limits of Malegaon Municipal Corporation.

6. We, accordingly, dispose of this writ petition by the following order:

ORDER

(I) As and when the directives issued by the Delimitation Commission in its letter dated

19th August 2002 addressed to the Chief Secretary, Maharashtra State are lifted, we direct the State Government of Maharashtra to take decision on petitioners representation and the report submitted by the Municipal Corporation of Malegaon for inclusion of area of "Collector patta" in the area of Malegaon Municipal Corporation under Section 3 of the Bombay Provincial Municipal Corporation Act, 1949.

No costs.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)